

Remarks

Supplemental to the response filed September 8, 2005, Applicants respectfully request reconsideration and reexamination of this application and timely allowance of the pending claims. Applicants appreciate the assistance of the Examiner in discussing the merits of the objection to the specification on September 23, 2005. In view of this discussion, Applicants consider all of the amendments to the claims to have been previously entered as they put the claims in condition for allowance and reduce the number of issues for appeal. As such, all of the claims remain in condition for allowance. The only outstanding matter is the objection to the amendments to the specification to correct SEQ ID NO: 1.

Specification

Applicants have amended the specification in the present amendment to provide the deposit data for the claimed protein and corresponding cDNA. Applicants request entry of this amendment as required under 37 C.F.R. 1.821. Furthermore, Applicants attach herewith the necessary statement under 37 C.F.R. 1.804 by Dr. Gerald Quinnan stating that the material deposited is identical to the material identified in the application. Written support for the plasmid pSV7d containing the nucleotide sequence corresponding to SEQ ID NO: 1 (as identified in the attached statement under 37 C.F.R. 1.804) can be found on page 21, lines 2 to 14. Written support can also be found in the corresponding priority application (U.S. Provisional Application 60/095,267 filed August 4, 1998) on page 18, lines 4 to 14.

The Examiner requested that the new matter presented in the previous amendment in Table 3 (filed October 4, 2004) and the substitute sequence listing submitted on November 12, 2003 be cancelled. The as-filed specification and sequence listing submitted on May 29, 2001 contained an inadvertent error because the amino acid at position 650 was inadvertently assigned lysine instead of serine. The Examiner contends that the declaration by Dr. Gerald Quinnan submitted on November 12, 2003 did not contain any indication that the sample of the original cDNA was taken from the same sample that was used to disclose the amino acid sequence of SEQ ID NO: 1 in the originally filed application (see Office Action dated June 4, 2004). Applicants submit that the term "original" in paragraph 5 of the declaration was intended to mean the original cDNA corresponding to the amino acid sequence of SEQ ID NO: 1. Thus, the pSV7d plasmid as disclosed in the specification and priority application and deposited is the original source for SEQ ID NO: 1.

Applicants bring to the attention of the Examiner that the attached statement by Dr. Gerald Quinnan under 37 C.F.R. 1.804 establishes the correct sequence of SEQ ID NO: 1 as set forth in the sequence listing submitted on November 12, 2003 because it refers to the pSV7d plasmid containing the correct version of SEQ ID NO: 1. The HIV envelope sequence contained in plasmid pSV7d containing the nucleotide sequence corresponding to SEQ ID NO: 1 in the sequence listing dated November 12, 2003 is the correct sequence. Applicants bring to the attention of the Examiner that to refuse correction of the structural formula of the claimed sequences, which have been found patentable by the Examiner, would lead to the absurdity of issuing a patent which teaches the public in its specification the wrong scientific formula for the new products (*Ex parte Marsili*, 214 USPQ 904, 906). As such, correction of the sequence is permissible (*Marsili*, *Id*) and entry of the amendment of the specification to correct the sequence was proper and need not be cancelled. Therefore, Applicants assert that no new matter has been added and request withdrawal of this objection.

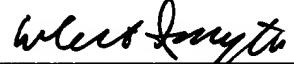
Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request reconsideration and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, she is invited to telephone the undersigned at her convenience.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. 1.136(a)(3).

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Respectfully submitted
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